IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.676 of 2006

Selvakumar @ Kutty ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Coimbatore District. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenu before this Court now confined at Central Prison, Coimbatore and set him at liberty and to call for records pertaining to the order of the detention passed in Cr.M.P.No.05/G/2006/E4 dated 17.02.2006 passed by the second respondent and set aside the same.

For Petitioner : Mr.K.Mohan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Selvakumar @ Kutty, who is detained as a ''Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug

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Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.02.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is a delay in passing the detention order and hence, the same is liable to be interfered with. Elaborating the above ground, the learned counsel has brought to our notice that the ground case is said to have taken place on 09.12.2005, whereas the detention order was passed only on 17.02.2006. According to him, in the absence of proper explanation by the person concerned, the time taken for passing the detention order cannot be accepted.

4. The learned Additional Public Prosecutor has brought to our notice that in respect of the ground case, the detenu was arrested only on 04.01.2006 and the detention order was passed on 17.02.2006. He has also brought to our notice that apart from the ground case, the detenu had involved in two adverse cases. The first adverse case relates to Crime No.377/02 dated 15.12.2003 on the file of Sanaarpatti Police Station, Dindigul District for the offence under Section 366-A IPC and the second adverse case relates to Crime No.68/2005 dated 04.02.2005 on the file of Karungalpalayam Police Station, Erode District for the offence under Section 379 IPC. The ground case relates to Crime No.2378/2005 on the file of Tirupur North Police Station, Coimbatore District, for the offence under Section 395 IPC. By pointing out all the three occurrences relating to different places viz., first case relates to Sanaarpatti Police Station, Dindigul District, second case relates to Karungalpalayam Police Station, Erode District, and the third case relates to Tirupur North Police Station, Coimbatore District, the learned Additional Public Prosecutor has stated that the time taken by the detaining authority for passing the detention order cannot be construed as longer than the minimum required time. He also pointed out that since relevant materials in respect of the three crime numbers have to be collected by the sponsoring authority after getting orders from the respective Court, the time taken by the detaining authority for passing detention order cannot be said to be either excessive or unreasonable.

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5. On going through the materials and the details regarding two adverse cases as well as the ground case, we accept the stand taken by the learned Additional Public Prosecutor and reject the argument of the learned counsel for the petitioner.

6. Though the learned counsel for the petitioner has highlighted certain infirmities in the investigation relating to the adverse cases and the ground case, we are of the view that the same cannot be gone into by this Court and it is open to the petitioner to agitate the same at the appropriate forum.

7. The learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu was received by the Government on 29.03.2006 and the remarks were called for on 30.03.2006. The representation of the detenu was received from the Government by the Collectorate on 31.03.2006 and parawar remarks were called for from the Sponsoring authority on the same day i.e. on 31.03.2006 and the remarks were received from the sponsoring authority on 01.04.2006 and report was sent to the Government on the same day i.e. on 01.04.2006. In the mean time, the remarks were received by the Government on 05.04.2006 and the File was submitted on 06.04.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day on 06.04.2006 and finally, the Minister for Prohibition and Excise also passed orders on 07.04.2006. The rejection letter was prepared on 10.04.2006 and the same was sent to the detenu on 11.04.2006 and served to him on 15.04.2006. If we exclude the intervening holidays, we are of the view that there was no let up or undue delay at any stage in considering the representation of the detenu as claimed by the learned counsel for the petitioner. Accordingly, we reject the said contention also.

8. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Coimbatore District.

3. The Superintendent, Central Prison, Coimbatore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ one cc to Mr. K. Mohan, Advocate sr no. 43723

AKM(CO)
NM(05.10.2006)

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